



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/044,430	01/11/2002	Richard L. Davis	075158.0104	8533
5073	7590	08/07/2009		
BAKER BOTTS L.L.P. 2001 ROSS AVENUE SUITE 600 DALLAS, TX 75201-2980			EXAMINER CHANDLER, SARA M	
			ART UNIT 3693	PAPER NUMBER
			NOTIFICATION DATE 08/07/2009	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ptomail1@bakerbotts.com
glenda.orrantia@bakerbotts.com

1
2
3 UNITED STATES PATENT AND TRADEMARK OFFICE
4

5
6 BEFORE THE BOARD OF PATENT APPEALS
7 AND INTERFERENCES
8

9
10 *Ex parte* RICHARD L. DAVIS
11

12
13 Appeal 2009-00554
14 Application 10/044,430
15 Technology Center 3600
16

17
18 Decided: August 5, 2009
19

20
21 *Before* MURRIEL E. CRAWFORD, ANTON W. FETTING, and JOSEPH
22 A. FISCHETTI, *Administrative Patent Judges*.

23
24 CRAWFORD, *Administrative Patent Judge*.
25

26
27 DECISION ON APPEAL

28 STATEMENT OF THE CASE

29 Appellant appeals under 35 U.S.C. § 134 (2002) from a final rejection
30 of claims 1-4, 6-20, 23-33, 36-42, 44, and 45. We have jurisdiction under
31 35 U.S.C. § 6(b) (2002).

32 Appellant invented a method and implementation for managing a
33 bid/auction over the web or any other type of electronically-enabled
34 procurement process (Abstract).

Claim 1 under appeal is further illustrative of the claimed invention as follows:

1. A method of management for procurement bidding comprising the steps of:
 - receiving a request for quote including requirement information from a buyer for a predetermined transaction;
 - packaging the requirement information into a bid/auction presentation for the predetermined transaction, wherein the packaging comprises generating a bid/auction presentation in a standardized format including at least one of descriptions, specifications, technical parameters, deadlines, and static and interactive graphical renderings with respect to the predetermined transaction;
 - selecting a plurality of sellers to each respectively provide at least one competitive bid for the predetermined transaction;
 - displaying the bid/auction for inspection to the plurality of sellers;
 - moderating a bid/auction for a predetermined interval to enable the plurality of sellers to submit a plurality of competitive bids; and
 - presenting bid results to the buyer for selection of winning bid from among the sellers.

The prior art relied upon by the Examiner in rejecting the claims on appeal is:

Li	US 2003/0004850 A1	Jan. 2, 2003
Scott	US 2004/0073507 A1	Apr. 15, 2004

The Examiner rejected claims 1-4, 6-20, 23-33, 36-42, 44, and 45 under 35 U.S.C. § 103(a) as being unpatentable over Li in view of Scott.

We AFFIRM-IN-PART.

ISSUES

Did the Appellant show the Examiner erred in finding that Li discloses “packaging the requirement information into a bid/auction presentation for the predetermined transaction, wherein the packaging comprises generating a bid/auction presentation in a standardized format including at least one of descriptions, specifications, technical parameters, deadlines, and static and interactive graphical renderings with respect to the predetermined transaction,” as recited in independent claims 1, 17, and 30?

Did the Appellant show the Examiner erred in finding that Li inherently discloses, prior to the step of moderating an auction, a step for soliciting a closed bid from each of the plurality of sellers, wherein the solicited closed bids establish an opening auction bidding level prior to the predetermined auction interval, as recited in dependent claims 9, 27, and 40?

Did the Appellant show the Examiner erred in finding that Li discloses receiving the required information from input fields on a web page for submitting information on at least one of: specifications, technical parameters, and deadlines with respect to the predetermined transaction, as recited in dependent claims 1 and 33?

Did the Appellant show the Examiner erred in combining Li and Scott to render obvious the subject matter of independent claim 44, because (1) Li does not disclose “packaging the requirement information into a bid/auction presentation for the predetermined transaction,” and (2) Scott does not disclose “selecting a plurality of sellers to each respectively provide at least one competitive bid for the predetermined transaction, wherein the sellers are selected from an appropriate category of a membership database of

1 sellers so as to match buyer requirement information with appropriate seller
2 expertise?”

3 Did the Appellant show the Examiner erred in combining Li and Scott
4 to render obvious the subject matter of independent claim 45, because Li
5 does not disclose “soliciting feedback so as to enable the sellers to provide
6 comments with at least one of requesting more information and proposing
7 alternatives to the requirement information specified in the auction
8 presentation, wherein the comments obtained are made available to all of the
9 respective plurality of sellers, and wherein the step of soliciting feedback is
10 repeated to enable the sellers to provide further comments on each other’s
11 comments?”

12 FINDINGS OF FACT

13 *Specification*

14 Appellant invented a method and implementation for managing a
15 bid/auction over the web or any other type of electronically-enabled
16 procurement process (Abstract).

18 *Li*

19 Li discloses a reverse auction where a buyer distributes a “request-for-
20 quotation” (hereinafter “RFQ”) to prospective suppliers. The RFQ contains
21 a list of items the buyer would like to purchase, and may include additional
22 buyer constraint information pertinent to the proposed transaction, such as
23 minimum and maximum quantities, delivery dates, and standards of quality.
24 The auction process begins with the buyer providing an RFQ to the server
25 12. The buyer constraints are then placed in categories on a web page
26 ([0004], [0057]; Figs. 13-14, 15A, 15B, 16A, 16B).

Suppliers then respond to the RFQ by submitting bids that represent constraints imposed by the supplier on a proposed transaction between the supplier and the buyer. Bids with supplier constraints that are inconsistent with the buyer constraints are discarded by the auction management software 18 executed on server 12 ([0059]).

Fig. 8 discloses that a particular auction may have a plurality of bid attributes where partners may provide specific categories of information requested by the buyer.

The buyer may use a messaging function to communicate directly with individual suppliers ([0060]).

Additional buyer constraints may be communicated to the supplier on a dynamically generated web page, including a minimum or maximum quantity bid for a logical item, a preferred delivery date, and a reserved price, which is the maximum price the buyer is willing to pay, and a historical price ([0100]).

The RFQ may specify whether the auction is to be a sealed auction; in which case suppliers do not have access to bids made by other suppliers, or a Dutch auction, in which case they do ([0102]).

Scott

Scott discloses that buyers and one or more pole personnel identify suppliers for participating in the auction. The most obvious suppliers are those that have already been “qualified” to supply the items being auctioned. New suppliers may be qualified with reasonable efforts ([0041]).

Approving a supplier is a process of audits (financial, legal, ethical, etc.,) conducted to determine whether the supplier is an entity capable of

1 supplying the items for the organization, and whether it conforms to all
2 relevant laws, ethics, and financial practices required by the organization
3 conducting the auction ([0043]).

4

5 *Dictionary Definitions*

6 Merrian-Webster's Collegiate Dictionary, Eleventh Edition, 2007
7 (hereinafter "Dictionary") defines the applicable definition membership as
8 "the body of members" (p. 774).

9 The Dictionary defines the applicable definitions of "member" as
10 "one of the individuals composing a group" and "one of the elements of a
11 class or set" (p. 774).

12

13 **PRINCIPLES OF LAW**

14 *Claim Construction*

15 Unless the steps of a method actually recite an order, the steps are not
16 ordinarily construed to require one. *Loral Fairchild Corp. v. Sony Corp.*,
17 181 F.3d 1313, 1322 (Fed. Cir. 1999) (stating that "not every process claim
18 is limited to the performance of its steps in the order written").

19 While the specification can be examined for proper context of a claim
20 term, limitations from the specification will not be imported into the claims.
21 *CollegeNet, Inc. v. ApplyYourself, Inc.*, 418 F.3d 1225, 1231 (Fed. Cir.
22 2005).

23 Quite apart from the written description and the prosecution history,
24 the claims themselves provide substantial guidance as to the meaning of
25 particular claim terms. To begin with, the context in which a term is used in

1 the asserted claim can be highly instructive. *Phillips v. AWH Corp.*, 415
2 F.3d 1303, 1314 (Fed. Cir. 2005).

3 During examination of a patent application, a pending claim is given
4 the broadest reasonable construction consistent with the specification and
5 should be read in light of the specification as it would be interpreted by one
6 of ordinary skill in the art. *In re Am. Acad. of Sci. Tech Ctr.*, 367 F.3d
7 1359, 1364 (Fed. Cir. 2004).

8
9 ANALYSIS

10 *Packaging Into Standardized Format*

11 We are not persuaded of error on the part of the Examiner by
12 Appellant's argument that Li does not disclose "packaging the requirement
13 information into a bid/auction presentation for the predetermined
14 transaction, wherein the packaging comprises generating a bid/auction
15 presentation in a standardized format including at least one of descriptions,
16 specifications, technical parameters, deadlines, and static and interactive
17 graphical renderings with respect to the predetermined transaction," as
18 recited in independent claims 1, 17, and 30 (App. Br. 12-14). Specifically,
19 Appellant asserts that Li does not disclose the step of packaging the RFQ
20 into a standardized format between receipt of the RFQ at server 12 and
21 making the RFQ available to the suppliers. As an initial matter, we note that
22 the claim, as written, does not recite that the packaging step occur after the
23 receiving step, and does not recite that a party other than the buyer must
24 perform the packaging step. *See Loral Fairchild Corp. v. Sony Corp.*, 181
25 F.3d at 1322. Accordingly, the buyer's placement of an RFQ in a

1 standardized format prior to the submission of the RFQ to server 12 would
2 be within the scope of the claimed packaging step.

3 Furthermore, we note that Figs. 13-14, 15A, 15B, 16A, 16B of Li
4 disclose buyer constraints placed in categories on a web page, showing that
5 some form of standardized formatting has occurred.

6 Moreover, we agree with the Examiner that Li discloses software 18
7 comparing buyer constraints to supplier constraints (Ex. Ans. 23-26). Such
8 a step would not be possible if the buyer constraints (and the seller
9 constraints) were not packaged into some standardized format such that
10 analogous constraints could be compared. Thus, the combination of the
11 facts that (1) either server 12 or the buyer could place the RFQ into a
12 standardized format, and (2) the buyer and seller constraints are compared
13 by software 18 on server 12, shows that Li inherently discloses the claimed
14 packaging step.

15
16 *Solicited Closed Bid as Opening Auction Bid*

17 We are not persuaded of error on the part of the Examiner by
18 Appellant's argument that Li does not inherently disclose prior to the step of
19 moderating an auction, a step for soliciting a closed bid from each of the
20 plurality of sellers, wherein the solicited closed bids establish an opening
21 auction bidding level prior to the predetermined auction interval, as recited
22 in dependent claims 9, 27, and 40 (App. Br. 14-15). We agree with the
23 Examiner that Li's disclosure of sealed bids in a sealed auction corresponds
24 to the claimed solicited closed bids and opening auction bidding level (Ex.
25 Ans. 26-27). Specifically, the first bid would correspond to the opening

1 auction bidding level, and subsequent rounds of bidding would correspond
2 to the plurality of bids submitted during the moderating step.

3 Appellant asserts that Li does not disclose that there can be both
4 closed bids from sellers and an open auction where the closed bids establish
5 an opening auction bidding level. However, the term “open auction” is not
6 set forth in the claims. *See CollegeNet, Inc. v. ApplyYourself, Inc.*, 418 F.3d
7 at 1231. While dependent claims 9, 27, and 40 do recite opening auction
8 bidding level, “opening” in this claim context is read as “beginning.” *See*
9 *Phillips v. AWH Corp.*, 415 F.3d at 1314. The first sealed bid in Li is a
10 “beginning” auction bidding level.

11
12 *Input Fields on Web Page*

13 We are not persuaded of error on the part of the Examiner by
14 Appellant’s argument that Li does not disclose receiving the required
15 information from input fields on a web page for submitting information on at
16 least one of: specifications, technical parameters, and deadlines with respect
17 to the predetermined transaction, as recited in dependent claims 1 and 33
18 (App. Br. 15-16). Li discloses that buyer constraints, including delivery
19 dates, are submitted to server 12 via a computer network/Internet and may
20 be communicated to the supplier on a dynamically generated web page. Fig.
21 8 discloses that a particular auction may have a plurality of bid attribute
22 input fields on web pages where partners may provide specific categories of
23 requested information. As one of these categories may be delivery dates,
24 and the claim only requests “at least one” of the attributes, Li discloses the
25 receiving step from input fields on a web page.

1 *Independent Claim 44*

2 We are not persuaded of error on the part of the Examiner by
3 Appellant's argument that it would not have been obvious to combine Li and
4 Scott to render obvious the subject matter of independent claim 44, because
5 (1) Li does not disclose "packaging the requirement information into a
6 bid/auction presentation for the predetermined transaction," and (2) Scott
7 does not disclose "selecting a plurality of sellers to each respectively provide
8 at least one competitive bid for the predetermined transaction, wherein the
9 sellers are selected from an appropriate category of a membership database
10 of sellers so as to match buyer requirement information with appropriate
11 seller expertise."

12 For issue (1), Li does disclose the packaging step for the same reasons
13 as set forth above with respect to independent claims 1, 17, and 30.

14 For issue (2), the Dictionary defines the applicable definition
15 membership as "the body of members," and the applicable definition of
16 "member" as "one of the individuals composing a group" and "one of the
17 elements of a class or set" (p. 774). Scott discloses identifying suppliers
18 who were predetermined as being "qualified" to supply particular items for
19 the buyer. This list of "qualified" suppliers must be stored in a database. As
20 each individual qualified supplier is "one of the individuals composing a
21 group" and "one of the elements of a class or set," the collection of
22 individual qualified suppliers does define a "body of members" or
23 membership. Thus, the qualified supplier database corresponds to the
24 recited "membership database" under a broadest reasonable interpretation.
25 *See In re Am. Acad. of Sci. Tech Ctr.*, 367 F.3d at 1364. As the supplier
26 approval process in Scott does require determining whether the supplier is

1 an entity capable of supplying the items for the organization, the buyer
2 requirement information is matched with appropriate seller expertise, as
3 recited in independent claim 44.

4 *Independent Claim 45*

5 We are persuaded of error on the part of the Examiner by Appellant's
6 argument that it would not have been obvious to combine Li and Scott to
7 render obvious the subject matter of independent claim 45, because Li does
8 not disclose "soliciting feedback so as to enable the sellers to provide
9 comments with at least one of requesting more information and proposing
10 alternatives to the requirement information specified in the auction
11 presentation, wherein the comments obtained are made available to all of the
12 respective plurality of sellers, and wherein the step of soliciting feedback is
13 repeated to enable the sellers to provide further comments on each other's
14 comments." Paragraph [0060] of Li merely discloses a buyer electronically
15 negotiating directly with a particular supplier. Li does not disclose the
16 claimed functionality where sellers can provide comments on *other sellers'*
17 comments.

18 **CONCLUSION OF LAW**

19 On the record before us, Appellant has shown that the Examiner erred
20 in finding that Li and Scott render obvious the subject matter of independent
21 claim 45.

22 On the record before us, Appellant has not shown that the Examiner
23 erred in finding that Li and Scott render obvious the subject matter of claims
24 1-4, 6-20, 23-33, 36-42, and 44.

25
26 **AFFIRMED-IN-PART**

Appeal 2009-000554
Application 10/044,430

1 JRG

2

3 BAKER BOTTS L.L.P.

4 2001 ROSS AVENUE

5 SUITE 600

6 DALLAS, TX 75201-2980